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**M. Harvey Rephen, Esq.**  
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October 20, 2009

VIA FACSIMILE (718) 613-2156 and ECF

Hon. Dora Lizette Irizarry, US District Court Judge  
United States District Court, Eastern District of New York  
225 Cadman Plaza East, Room 605N  
Brooklyn, New York 11201

Re: Darbouze v. Sharinn & Lipshie, PC, et. al.  
Civil Docket No. 09 CV 2447

Dear Judge Irizarry:

In accordance with the Court's 'Notice of Impending Dismissal for Failure to Prosecute', the same dated October 2, 2009, this letter shall serve as the requisite explanation for the delay in prosecution of the above entitled matter.

At the outset, on the initial filing of the action, this office served the Defendant Sharinn & Lipshie, PC ("SLPC") via Federal Express with the 'Notice of Waiver of Service of Summons' package, the package mailed on or about June 15, 2009. During the course of the sixty-day time period, this office reached out to the Defendant SLPC, a law firm. Towards the end of the sixty-day time period, although the Defendant SLPC did not file and/or serve a response, my father, who lives overseas became ill, the illness requiring me to travel overseas and re-locate temporarily. As a one-attorney office, this caused a back-up in the instant matter. Notwithstanding this, the Defendant SLPC was served personally on or about October 8, 2009. The affidavit of service, having just been received, is being filed with this Court.

Recently my father passed away, and with the mourning period having been completed, it is my expectation that if the Defendant SLPC does not appear, we would immediately file for a default upon the expiration of the Defendant's time to appear, the expiration being on or about November 8, 2009.

Additionally, as a side note, due to a problem with this office's email, the Court's notice was not electronically received. Only a review of the case on PACER revealed this Court's outstanding notice. As such, this office will mail a copy of the Electronic Order to the Defendant SLPC and immediately file the proof thereof via ECF.

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In light of the above, it is respectfully requested that the Court deem the content of this communication/response as a satisfactory explanation for the lack of proceedings.

We thank the Court for its time and attention to this matter.

Respectfully submitted,



M. Harvey Rephen

MHR/mr